

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

JONATHON LEON TOLIVER,

Defendant.

2:06-CR-00234-PMP-GWF

ORDER

This matter is before the Court for consideration of Defendant Jonathon Toliver's Amended Motion to Vacate, Set Aside, or Correct Criminal Convictions and Sentence Pursuant to 28 U.S.C. § 2255 (Doc. #665). Defendant's Amended Motion is fully briefed, and following the hearing conducted April 21, 2014 (Doc. #710), a further hearing was set to consider limited evidence and further argument on Thursday, July 10, 2014.

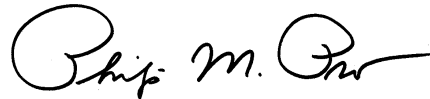
Following the April 21, 2014 hearing, Defendant Toliver filed on April 28, 2014, a Motion for Leave to Conduct Discovery and For Court Order to Obtain Documents (Doc. #713). Defendant Toliver's Motion for Leave to Conduct Discovery sets forth six discreet requests seeking court orders to obtain various records from the Clark County School District, the Las Vegas Metropolitan Police Department, and the Nevada Department of Corrections which, according to Defendant Toliver, would arguably enable him to demonstrate actual innocence with respect to his convictions for violent crime in aid of racketeering ("VICAR") on the ground that the alleged racketeering enterprise in the form

1 of a gang called "Squad-Up" did not exist at the time of the crimes alleged. However, for
2 the reasons set forth in the Governments Response in Opposition to Defendant Toliver's
3 Motion (Doc. #717), the Court finds that Defendant's discovery request must be denied.

4 Specifically, Defendant Toliver has not, and cannot, show good cause to support
5 Discovery Request Nos. 1 and 2 for records from the Clark County School District and the
6 Las Vegas Metropolitan Police Department concerning the existence of "Squad-Up" as a
7 gang because the jury's convictions of Defendant Toliver, which were affirmed by the
8 Court of Appeals, demonstrate the existence of "Squad-Up" during the relevant period,
9 beyond a reasonable doubt. Additionally, the Court finds Defendant Toliver fails to show
10 good cause to support Request for Discovery Nos. 3, 4, 5, and 6.

11 **IT IS THEREFORE ORDERED** that Defendant Toliver's Motion for Leave to
12 Conduct Discovery and For Court Order to Obtain Documents (Doc. #713) is DENIED.

13 DATED: June 23, 2014.

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16 PHILIP M. PRO
17 United States District Judge
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